



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PAUL MERCER
COMMISSIONER

December 2, 2016

Verrill Dana, LLP
One Portland Square
Portland, Maine 04112-0586
ATTN: Scott D. Anderson

RE: Maine Turnpike Authority York Toll Plaza, York,
Natural Resources Protection Act and Site Location of Development Act Applications,
DEP Project #L-27241-TG-A-N and #L-27275-TP-A-N
Public Hearing Determination and Determination on Site Location of Development
General Permit

Dear Mr. Anderson:

Thank you for your November 29, 2016 letter on behalf of the Town of York requesting that the Maine Department of Environmental Protection (Department) hold a public hearing as part of the review of the Maine Turnpike Authority’s Natural Resources Protection Act (NRPA) and Site Location of Development Act (Site Law) applications for a relocated toll plaza in York, Maine.

Public Hearing Determination

According to the Department’s *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2, §7.B. (last amended October 19, 2015), the Commissioner may conduct a hearing on any application, and the Department will hold a hearing in those instances where the Department determines there is credible conflicting technical information and it is likely that a hearing will assist the Department in understanding the evidence.

For this proposed project, the Department has received information regarding a potential alternative to the Open Road Tolling facility proposed by the MTA. Specifically, studies and reports have been submitted about an All Electronic Tolling alternative that is purported to reduce or eliminate impacts to protected natural resources, and be a feasible alternative to the MTA proposal. While the MTA has responded on the feasibility of this alternative, the Department believes that it would most advantageous to have an open and transparent review of this alternative through a public hearing process. Therefore, the Department has determined that a public hearing will assist the Department in understanding the MTA’s

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proposal, and the feasibility of the suggested alternative. The Department will specify the parameters and timing of the public hearing in a separate correspondence.

Site Law General Permit Determination:

The Site Law statute (*Site Location of Development Act*, 38 M.R.S. § 486-B (2009)) gives the Department the authority to issue a General Permit to the MTA and the Maine Department of Transportation. On February 29, 2016, the Department issued a Site Law General Permit for the MTA. This General Permit recognizes that the MTA has established environmental procedures and standard practices that meet or exceed Site Law requirements, and establishes an alternative permitting review process. On October 19, 2016, the Department received a Site Law General Permit application from the MTA (concurrent with the NRPA application) for the proposed York Toll Plaza. On November 3, 2016, we received your letter requesting that the Department require MTA to file an individual Site Law permit, and not use the Site Law General Permit.

Section VI.E of the General Permit gives the Department the ability to require MTA to file an individual Site Law permit if the Department determines that a proposed development warrants a more extensive analysis under the Site Law criteria. The Department must make this determination within 30 days of receipt of a complete General Permit application.

Section II of the Site Law General Permit states that:

“A development authorized by this GP is required to meet all applicable requirements [emphasis added] of the Site Law pursuant to 38 M.R.S.A. § 484, the specific conditions listed in this section, and any conditions attached to an approval of a Notice of Intent.”

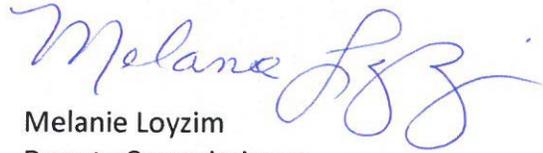
The Department has compared the Site Law General Permit review standards against the individual permit Site Law standards and concludes that a suitable review can be performed on this application under the Site Law General Permit. The Department believes that issues raised under the Site Law can be adequately reviewed and addressed under the Site Law General Permit, and the public hearing process will also provide for a full and open discussion of the issues. Further, there are no limits to a proposed project's type, size, location or complexity that can be reviewed under the MTA Site Law General Permit. Therefore, the Department will allow the MTA to utilize the Site Law General Permit process for the proposed York Toll Plaza project.

The Department will be reviewing the NRPA and Site Law General Permit applications concurrently as required by Section VI.D. of the Site Law General Permit.

Letter to Mr. Scott D. Anderson
(December 2, 2016)
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Thank you for your interest on this proposed project.

Sincerely,

A handwritten signature in blue ink that reads "Melanie Loyzim". The signature is fluid and cursive, with the first name "Melanie" written in a larger, more prominent script than the last name "Loyzim".

Melanie Loyzim
Deputy Commissioner

C: Paul Mercer, DEP
Robert Green, DEP
Peter Mills, MTA